

NORTH CENTRAL OIL CORP.

IBLA 81-517

Decided February 24, 1982

Appeal from decision of the Montana State Office, Bureau of Land Management, denying approval of assignment of record title to oil and gas lease M 28593-C.

Set aside and remanded.

1. Oil and Gas Leases: Assignments or Transfers

A request for approval of assignment of record title to an oil and gas lease is properly denied in the absence of evidence of the qualifications of the assignee to hold Federal oil and gas leases or lack of sufficient bond. However, the failure to submit three manually executed assignment forms as required by 43 CFR 3106.2-2, is a curable defect.

APPEARANCES: Lell Kelley, Land Department, North Central Oil Corporation, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

The North Central Oil Corporation has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), denying approval of an assignment from the Transcontinent Oil Company to appellant, of record title to oil and gas lease M 28593-C. The assignment was executed by the assignor, Transcontinent Oil Company, on December 5, 1979, and the request for approval was executed by the assignee on February 20, 1980. The instruments were timely presented to the Montana State Office on February 29, 1980; however, one of the three required copies of the assignment was not signed. By decision of February 24, 1981, BLM denied approval of the assignment, citing 30 U.S.C. § 187a (1976). The applicable regulation 43 CFR 3106.2-2(a)(2) states in part that "[E]ach of the three copies of the assignment form shall be signed holographically (manually) in ink and shall be filed for each lease or for each transfer of all or a part of the leased acreage * * *."

Appellant does not disagree that one of the three forms it submitted did not comply with the regulation. Appellant states that the assignment form was not signed through inadvertence and has submitted another executed copy of the assignment form for inclusion with the record on appeal.

[1] An oil and gas lease may be assigned "subject to final approval by the Secretary." 30 U.S.C. § 187a (1976). The filing of a proposed assignment in conformity with the applicable law and regulations ordinarily requires approval by the Department except for lack of qualifications of the assignee or lack of sufficient bond. 30 U.S.C. § 187a (1976); *Montana Bank, Trustee*, 54 IBLA 359 (1981). Although both the statute, 30 U.S.C. § 187a (1976) and the applicable regulation, 43 CFR 3106.2-2, require the filing of three executed copies of a request for approval of assignment, and BLM properly withheld approval in the absence thereof, neither the statute nor the regulation requires the rejection of an assignment affecting record title to an oil and gas lease where an applicant has not been given the opportunity to correct an obvious oversight. Therefore, the failure to submit three manually executed assignment forms may be treated as a curable defect. Appellant in this case has rectified the deficiency.

There is nothing in the record in the instant case that would indicate that the failure of the assignee to file the assignment properly adversely affected the rights of third parties. Therefore, we believe further consideration should be given to the assignment. Subject to final approval by BLM, assignments take effect as of the first day of the lease month following the date of filing in the proper office of all papers required for the assignment. 43 CFR 3106.3-3.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside, and the case is remanded for action consistent with this opinion.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

